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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,701

11/12/2003

Christine L. Knapp

5240

41131

7590

12/05/2006

KENNETH EARL DARNELL  
2010 WEST SEVENTH STREET  
COFFEYVILLE, KS 67337

EXAMINER

HYUN, PAUL SANG HWA

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/705,701

Applicant(s)

KNAPP, CHRISTINE L.

Examiner

Paul S. Hyun

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### REMARKS

Claims 1-22 are pending. In response to the written restriction requirement mailed 04/04/2006, Applicant elected the prosecution of claims 1-6 with traverse. Applicants' arguments with respect to the restriction have been fully considered, and they are persuasive. Therefore Groups I-IV have been rejoined and claims 1-22 will be examined on their merits.

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the phrase "at least one aromatherapeutic agent..." However, claim 8 already recites an aromatherapeutic agent. It is unclear whether claim 13 is reciting two different aromatherapeutic agents. If it is, it is suggested that "at least one aromatherapeutic agent" be changed to "a second aromatherapeutic agent".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 7-11, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweeny (US 4,528,226).

Sweeny discloses that "scratch 'n' sniff stickers", which comprise a sticker coated with a film of microcapsules containing fragrant chemicals, are well known in the art. The release of the chemicals contained in the microcapsules is stimulated by pressure or by shear applied to the microcapsule layer (see lines 62-68, col. 1).

With respect to claim 7, it should be noted that the claim recites an intended use of an article in an attempt to further limit the claimed article. The term "projectile" as recited in the claim does not have any patentable significance because the term describes an intended use of the claimed article. Any material object, including a rolled

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up sheet of scratch 'n' sniff stickers disclosed by Sweeny, becomes a projectile when it is thrown.

Claims **1, 2, 8, 14, 15 and 19** are rejected under 35 U.S.C. 102(b) as being anticipated by Goldwasser (US 4,487,585).

Goldwasser discloses a toy comprising a plurality of recesses 14 wherein each recess comprises a surface and a unique scratch 'n' sniff sticker. The scent emitted by each sticker correlates to the image disposed on each sticker (see Abstract and Fig. 1).

Claims **8 and 18** are rejected under 35 U.S.C. 102(b) as being anticipated by O'Halloran (US 6,132,830).

O'Halloran discloses a substrate 12, a release sheet 14, and an adhesive 16 comprising scent-containing microcapsules 26 disposed between the substrate and the release sheet (see Fig. 3 and claim 24). When the release sheet is peeled from the substrate, the microcapsules rupture and the scent is released.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1, 6, 8, 12, 13, 16, 17 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Sitabkhan (US 2004/0022990 A1).

Sitabkhan discloses an article comprising an aromatherapeutic agent disposed thereon. The article can be flexible like a poster or rigid like a woodcraft (see [0041] and [0042]). The aromatherapeutic agent is encapsulated in microcapsules wherein the microcapsules are configured to rupture upon exposure to compression force, heat, or shear force. In addition to aromatherapeutic agents, anti-microbial agents and deodorizing agents can be incorporated onto the surfaces of the articles for sanitation purposes (see [0011]).

Sitabkhan also discloses a method for applying the encapsulated aromatherapeutic agents onto articles. The method comprises encapsulating the aromatherapeutic agents in microcapsules, fluidizing the microcapsules, and applying the microcapsules via aerosol (see Tables 2 and 3 and [0054]-[0061]).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims **4 and 5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitabkhan.

Sitabkhan discloses articles comprising aromatherapeutic agents, anti-microbial agents and deodorizing agents disposed thereon, but the reference does not explicitly disclose that the article is a vehicle dashboard or a punching bag. However, the reference does disclose that the article can be carpets, rugs, fibrous mats, furniture, drapery, and similar products and materials (see Abstract). The agents can be applied on any surface that provides a nutrient rich environment for odor producing bacteria and organisms to grow (see [0004] and [0005]).

In light of the disclosure, it would have been obvious to one of ordinary skill in the art to apply the agents disclosed by Sitabkhan onto a vehicle dashboard to maintain a pleasant smell within the vehicle. It also would have been obvious to one of ordinary skill in the art to apply the agents onto a punching bag since a punching bag provides a nutrient rich environment for odor producing bacteria and organisms to grow.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul S. Hyun whose telephone number is (571)-272-8559. The examiner can normally be reached on Monday-Friday 8AM-4:30PM.

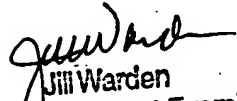
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PSH

11/27/06

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700